

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 24, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Oahu

Request for Extension of Notice of Default, General Lease No. 4582, Mokauea  
Fishermen's Association, Lessees; Kalihi, Honolulu, Oahu, Tax Map Key: (1) 1-1-3:188.

BACKGROUND:

Department of Health (DOH) issued a Notice of Apparent Violation (NAV) on December 5, 2008 regarding illegal discharges of wastewater may be occurring at Mokauea Island. Based on the information gathered by Clean Water Branch of DOH, it appears that Moakuea Island has no sanitary sewage system and that the wastewater generated by the residents and visitors is being discharged directly into the surrounding marine waters.

Pursuant to the authority granted by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease 4582, Mokauea Fishermen's Association, Lessee, was served a Notice of Default (NOD) regarding the DOH's violation by certified mail dated December 26, 2008 for:

Failure to comply with Condition 7 "Compliance with laws" which states "... the Lessee shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws pertaining to the said premises, now in force or which may be hereinafter in force."

The NOD accepted by the lessee on January 26, 2009, offered the lessee a sixty-day (60) cure period to correct the default. This cure period expired on March 28, 2009. As of April 15, 2009, this default has not been cured.

REMARKS:

The lessee, by its letter dated April 15, 2009 attached as Exhibit A, requests for an extension of the cure period for six (6) months. Since the receipt of the NOD, the lessee has installed a temporary cesspool type system that diverts the water to holding tanks and allows for slow seepage onto land. Meanwhile, the lessee is working on a comprehensive plan to provide sustainability of the island. Some voluntary organizations are providing donations or technical advice regarding the improvement of the treatment system on the island. In view of

the limited resources from the residents on the island, the lessee requests more time to work with other organizations and individuals to correct the default.

Staff understands from DOH that since the NOD was issued, there were some communications between DOH and some voluntary organizations, but not directly from the lessee itself. DOH requests more direct involvement from the lessee, including assigning a contact, regarding the violation and any mitigation measures.

Staff recommends the Board extend the cure period to allow the lessee an opportunity to correct the default.

RECOMMENDATION:

1. Authorize the extension of the cure period of the Notice of Default dated December 26, 2008 for additional six (6) months;
2. Authorize the Chairperson further extend the cure period of the Notice of Default beyond the six (6) months period for good cause; and
3. Such other terms and conditions as prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
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Laura H. Thielen, Chairperson 

# Mokauea Fishermen's Association



RECEIVED  
LAND DIVISION

APR 15 8 24

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

4 Sand Island Access Road #3  
Honolulu, Hawai'i 96819

April 15, 2009

Board of Land and Natural Resources  
c/o Barry Cheung  
Department of Land and Natural Resources  
Kalanimoku Building  
1151 Punchbowl St.  
Honolulu, Hawai'i 96813

Re: Request for Extension to Cure Notice of Apparent Violation dated December 5, 2008 from the Department of Health

Dear Members of the Board:

We, the Board of Directors for the Mokauea Fishermen's Association, are writing to request an extension of time to cure the violations described in the Department of Health's Notice of Apparent Violation of Hawaii Water Pollution Rules and Regulations, dated December 5, 2008.

Since we received the Notice of Violation, the Association has been actively working with community groups, design professionals, and the Department of Health's Clean Water and Waste Water Branches to remedy the situation. We acknowledge that we are beyond the sixty day period to cure the violation stated in your December 26, 2008 Notice of Default issued by your Department has expired and we have installed a temporary cess-pool type system that diverts the water to holding tanks and allows for slow seepage onto land until we are able to install a permanent system.

Our plans for a wastewater system is a major component of our comprehensive management plan that is presently in progress for a sustainable island. We believe we can implement a wastewater treatment system within the next six months if we are given an extension by your board. We need this extension for the following reasons:

- 1) We are in consultation with various organizations and individuals to plan and design a long-term solution for our wastewater discharge. We want to insure that our design is in compliance with all applicable rules and regulations that will support our residents and volunteers in the future.
- 2) There are currently five families on the island and we have limited resources. We spent a considerable sum to install a temporary system and will need

**EXHIBIT "A"**

additional time to generate funds for a permanent system which we believe will cost between \$15,000 - \$20,000 for the residents' portion alone.

- 3) Supporting individuals and organizations are currently fundraising to help us meet the financial obligations of implementing a system both for residents and volunteers on the island.

A number of people are involved in our effort to come into compliance and depend on our success in meeting all our requirements so that they can return with their groups to the island. The following is a list of organizations and companies we are currently working with and their involvement in our effort:

- **Kai Makana** - a non-profit organization focusing on marine protection and education, is assisting in working with the DOH to ensure that the wastewater treatment system on the island is in compliance with all environmental rules and regulations. Kai Makana is also assisting in fundraising efforts to help offset the costs of the system.
- **Group 70 International, Inc.** - a design firm focused on sustainable development, is working in conjunction with Dwight Streamfellow and Lauren Carter-Roth Venu of Roth Ecological Design Int., LLC to determine the type of system that will best serve our needs and meet DOH's requirements. They have designed two systems, one that includes composting toilets and a greywater treatment system, and the other that involves individual cess pools. We will be meeting with the design professionals and DOH staff to discuss our options.
- **Paradigm Construction** - Project Engineer La'akea Carvalho is a consultant and is currently working towards acquiring composting toilets for the island. Mr. Carvalho is also planning fundraising events to raise money towards purchasing the toilets and other system requirements.
- **Halau Ku Mana Public Charter School** - Halau Ku Mana has donated \$1,000 to Kai Makana towards a treatment system for volunteers and visitors. Our island is included in the curriculum for their students and they would like to see us in compliance as soon as possible so they can return with their students and continue with their curriculum.

We want you to know that we have long term plans to restore the cultural features of the island and to create a sustainable community so that we can meet our mission of

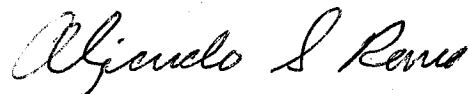
Mokauea Fishermen's Association  
Alejandro S. Romo  
April 15, 2009  
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educating the public about what it means to be a traditional self-sustaining Hawaiian fishing village. Currently, House Bill No. 1675 pending in the legislature aims to create an educational center and advisory group to further our mission and goals. Please, we ask you for your understanding, patience and the time to bring all of this to reality.

We would like an acknowledgement please, of some sort so we know you have received this letter.

Thank you very much for your time in considering in all of this.

Sincerely,

A handwritten signature in cursive script, reading "Alejandro S. Romo".

Board of Directors of the Mokauea  
Fishermen's Association